

**UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE**

MANDI PHILLIPS, on Behalf of Herself and All Others Similarly Situating,)	
)	CASE NO.: 3: 14-cv-1710
)	
Plaintiff,)	Hon. Waverly D. Crenshaw, Jr.
)	
vs.)	
)	
MAPCO EXPRESS, INC., and DELEK US HOLDINGS, INC.,)	
)	
Defendants.)	
)	

DECLARATION OF KIMBERLY K. NESS REGARDING RESIDUAL FUNDS

I, Kimberly K. Ness, being duly sworn and deposed, declare and state as follows:

1. I am Principal of Dahl Administration, LLC (“Dahl”), and I am over 21 years of age and not a party to this action. This Declaration is based on my personal knowledge, information provided by the staff of Dahl, and information provided by Dahl’s media partners. If called as a witness, I could and would testify competently to the facts stated herein.

2. As previously described in the Declaration of Jeffrey D. Dahl with Respect to Settlement Notice Plan dated December 12, 2016 and the Supplemental Declaration of Jeffrey D. Dahl, dated December 30, 2016, Dahl has been retained as the Notice Administrator and Settlement Administrator for the above-captioned action. I submit this Declaration in order to provide the Court and the parties to the Litigation¹ with information regarding the final accounting of the Settlement Fund and the proposed disbursement of the Residual Funds.

¹ All capitalized terms not otherwise defined herein have the meaning ascribed to them in the Stipulation of Settlement, dated September 6, 2016 (ECF No. 25-1).

DISTRIBUTION OF SETTLEMENT FUND

3. Dahl received from the Defendant the Settlement Amount totaling \$50,000, as set forth in the Stipulation of Settlement. Interest was earned on this account (\$19.32) and taxes on this interest were paid (\$3.32).

4. As set forth in the Stipulation of Settlement and notice disseminated in connection with the Settlement, all Settlement Class Members wishing to participate in the Settlement were required to submit a valid and timely Proof of Claim form on or before January 26, 2017.

5. Dahl received and processed a total of 5,711 Proof of Claim forms, of which 5,568 were filed online and 143 were filed on paper claim forms.

6. 3,111, or 54.5%, of the 5,711 total Claim forms submitted to Dahl were late, duplicative, or did not meet the Claim Form requirements.

7. Ultimately, after conducting all usual and customary due diligence, Dahl mailed checks to 2,600 Settlement Class Members on May 19, 2017, for a total of \$50,014.68.

8. Dahl logged each distribution mailing returned as undeliverable. The log is available for inspection by the Court, Class Counsel and counsel for Defendant upon request.

9. There were 115 distribution checks returned without a forwarding address. Better addresses were located on 26 records. As a result, 89 payments remained undeliverable.

10. There were 12 distribution checks that were returned with a forwarding address and promptly remailed to the updated addresses.

FINAL ACCOUNTING

11. The check cashing deadline was August 17, 2017. As of September 9, 2018, Settlement Class Members cashed checks totaling \$45,998.80.

12. Pursuant to §2.1 of the Stipulation of Settlement, after calculation of the payment amount of all valid Claims, \$4,017.20 remains in the Settlement Fund. This represents the value of uncashed and undistributed funds.

13. Pursuant to §2.1 of the Stipulation of Settlement, any balance that still remains in the Residual Fund shall be distributed to the appropriate non-profit organization selected by the parties and approved by the Court. Accordingly, Dahl respectfully requests that the Court enter an Order approving the disbursement of the remaining balance of the Settlement Fund.

I declare under penalty of perjury, that the foregoing is true and correct to the best of my knowledge.

Executed this 24th day of September, 2018 in Minneapolis, MN.



Kimberly K. Ness
Principal
Dahl Administration, LLC